

Indiana Department of Education

Division of Special Education

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1802.01
COMPLAINT INVESTIGATOR: Jane Taylor-Holmes
DATE OF COMPLAINT: September 14, 2001
DATE OF REPORT: October 12, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: November 14, 2001

COMPLAINT ISSUES:

Whether the Marion Community Schools and the Grant County Special Education Cooperative violated:

511 IAC 7-25-5(c) with regard to the school's alleged failure to respond to the parent's request for an independent educational evaluation within ten business days of the date of the school's receipt of the request.

FINDINGS OF FACT:

1. The student (the "Student") is seven years old and attends the local elementary school (the "School"). The Student is eligible for special education and related services as a student with a learning disability ("LD").
2. The case conference committee (the "CCC") met on May 2001 to discuss the results of the Student's initial educational evaluation. The CCC found the Student eligible for services as a student with a LD. The Complainant gave written consent for the *IEP* that was developed at the CCC meeting to be implemented during the 2001-02 instructional year. There is no mention of the Complainant seeking an independent evaluation in the *CCC Report*.
3. A meeting was held between the Complainant, the Complainant's father, the Complainant's aunt, and the Corporation Director on June 6, 2001. The Complainant requested an independent evaluation through a diagnostic learning center at a state university (the "Learning Center"). No report of the June 6, 2001, meeting was written.
4. The Corporation Director informed the Complainant in a letter dated June 22, 2001, that the Learning Center would not be able to conduct testing until the fall. The Corporation Director wrote the following in the letter.

"As I mentioned to your father by phone in follow-up to our meeting, the [Learning Center] is closed during the summer months. When I talked to the secretary for the [Learning Center], she informed me you need to talk to [Learning Center doctor] [(telephone number)] to make arrangements for the testing when the college staff is back again in mid-August. I also said to your father that [local school corporation] would be glad to consider another source for testing if you do not want to wait until fall. Your telephone message to me on June 19 indicated you do want to wait and schedule the appointment for [Student] with the [Learning Center]."

The Corporation Director also wrote "I will then make arrangements for [local school corporation] to cover any costs for the testing by the [Learning Center]."

5. In a letter dated July 19, 2001, to the local special education cooperative (the "Special Education Cooperative"), the Complainant requested an independent educational evaluation. The Complainant did not receive a response from the Special Education Cooperative regarding the request contained in the July 19, 2001, letter.
6. The CCC met on September 14, 2001. Page two of the *CCC Report* references the Complainant's request for an independent evaluation during the June 6, 2001, meeting, and the Corporation Director's subsequent June 22, 2001, letter to the Complainant. The *CCC Report* states that the Complainant "forwarded the [Learning Center] forms mailed to her in July to the [Corporation Director]. The portion requesting record information was completed and returned to [Learning Center] on August 1, and the portion requesting school records was forwarded to the principal of [Student's] school for completion and submission to [Learning Center]." The *CCC Report* also includes the following. "[Complainant] and [advocate], her educational advocate, contend the school failed to provide a list of independent evaluators when the request for an independent evaluation was submitted. The school contends a list was offered at the June 6 meeting when the independent evaluation was requested but was refused by [Complainant]."
7. In a letter dated September 21, 2001, to the Complainant, the Corporation Director referenced the September 14, 2001, CCC meeting. The Corporation Director wrote the following in the letter.
"Thank you for meeting with us at [School] on September 14, 2001 to review [Student's] individual education program (IEP) and to discuss your request for an additional assessment and an independent evaluation."
A list of three independent evaluators was included in the Corporation Director's letter.

CONCLUSION:

Findings of Fact #3, #5, and #6 indicate that the Complainant requested an independent evaluation during a meeting on June 6, 2001, and in a letter dated July 19, 2001. However, Findings of Fact #4, #5, and #7 indicate that the School did not notify the Complainant in writing within ten business days of either of the Complainant's requests that the independent educational evaluation would be at public expense. A violation of 511 IAC 7-25-5(c) occurred.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Marion Community Schools and the Grant County Special Education Cooperative shall:

conduct an inservice training with all professional personnel within the school corporation regarding the requirement to respond to a parent's request for an independent educational evaluation within ten business days of the date of the school's receipt of the request by either initiating a due process hearing to show that its educational evaluation is appropriate, or notifying the parent in writing that the independent educational evaluation will be at public expense. A copy of the inservice training agenda, and a sign-in sheet of all attendees by name and title, shall be submitted to the Division no later than November 9, 2001.

DATE REPORT COMPLETED: October 12, 2001